

FILED
JAMES J. VILT, JR. - CLERK

AUG 20 2025

U.S. DISTRICT COURT
WEST'N. DIST. KENTUCKY

Sylvia S. Quaye
Kentucky Bar No. 91249
Attorney for Petitioner

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY**

Dainier Aleman Garcia,

Petitioner,

v.

Jeff Tindall, Jailer, Oldham County
Detention Center

Todd M. Lyons, Acting Director, or his agent,
U.S. Immigration and Customs Enforcement;

Kristi Noem, Secretary of the U.S. Department of
Homeland Security;

Pam Bondi, Attorney General of the United States,
in their official capacities,

Respondents.

Case No. 3:25CV-522 RGJ

**PETITION FOR WRIT OF
HABEAS CORPUS**

**ORAL ARGUMENT
REQUESTED**

INTRODUCTION

1. Petitioner is a citizen and national of Cuba.
2. He first entered the United States on December 18, 2017 and was subsequently ordered removed on March 5, 2018, after being detained for several months by the Department of Homeland Security (DHS). He was removed on or about March 5, 2018, to Cuba. After facing more persecution in Cuba, he returned to the United States, through the Southern border of Mexico on or about On October 20, 2022. He was then paroled under INA 212(d)(5) or about October 21, 2022. In light of this parole, he applied for Adjustment of Status under the Cuban Adjustment Act (CAA).

3. Unbeknownst to Dainier, his prior Removal Order was reinstated, without notice to him.
4. On or about May 13, 2025, he was invited to an ICE check in and was detained, and has been since then.
5. Accordingly, to vindicate Petitioner's constitutional right, this Court should grant the instant petition for writ of habeas corpus.
6. Petitioner asks this Court to find that he is unlawfully detained and order him released.

JURISDICTION

7. This Court has subject matter jurisdiction under 28 U.S.C. §2241 (habeas corpus) and 28 U.S.C. §1331(federal question).

VENUE

8. Venue is proper because Petitioner is detained at Oldham County Detention Center, in Oldham County, KY, which is within the jurisdiction of this District.

REQUIREMENTS OF 28 U.S.C. § 2243

9. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require Respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).
10. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

11. Petitioner presented himself at the United States Mexico Border in October of 2022. He was subsequently paroled into the United States by the DHS under INA 212(d)(5)(A). On May 13, 2025, he reported as directed to Immigration Customs and Enforcement (ICE) in Louisville, KY. He was unreasonably detained and is currently detained at the Oldham County Detention Center in Oldham County, Kentucky. He is in the custody, and under the direct control, of Respondents and their agents.
12. Respondent Jailer Jeff Tindall is the Jailer of Oldham County Detention Center and he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent Jeff Tindall is a legal custodian of Petitioner.
13. Respondent, Todd M. Lyons, is the Acting Director of Field Office of U.S. Immigration and Customs Enforcement. Respondent, Lyons is a legal custodian of Petitioner and has authority to release her.
14. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent, Kristi Noem, is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees U.S. Immigration and Customs Enforcement the component agency responsible for Petitioner's detention. Respondent Krisit Noem is a legal custodian of Petitioner.
15. Respondent, Pam Bondi, is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive

Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent, she is a legal custodian of Petitioner.

STATEMENT OF FACTS

1. Petitioner Dainier Aleman Garcia is a citizen and national of Cuba.
2. On or about October 20, 2022, Petitioner entered the United States, via the southern border with Mexico, seeking asylum. DHS paroled her into the United States under INA 212(d)(5). He was never served a warrant nor a Notice to Appear (NTA). He was not put in removal proceedings.
3. In December 2022, he filed an application for Asylum and Withholding of Removal and received his Notice of Receipt on or about December 23, 2022. Then on April 8, 2025, Petitioner filed an I-485 Application for Adjustment of Status under the Cuban Adjustment Act. He filed all these Applications with the USCIS. USCIS issued Petitioner an acknowledgement of receipt for both Applications. Petitioner has been awaiting his asylum interview with USCIS and was issued a work permit and social security card.
4. On May 13, 2025, Petitioner appeared at the ICE office as instructed. He was detained and subsequently transferred to Oldham County Detention Facility.
5. Petitioner was told by the ICE agents who arrested him that he should not have been paroled when he entered the United States and was “processed too quickly” and are now putting him in expedited removal proceedings.
6. At the time of her detention, Petitioner was fully compliant with ICE, and he had an affirmative asylum application pending with USCIS which allows him to stay in the United States until that case is adjudicated. He had no criminal history and had attended

- all ICE check-ins. No circumstances justified a change in his custody status, other than the unilateral and arbitrary decision by ICE to reprocess him.
7. ICE has not properly effectuated the expedited removal process of Petitioner. Instead, he is being unlawfully detained without any process. He has no court date to his knowledge and no bond. He sits in a detention facility hours away from his infant child, his fiancé, his family, and his job.
 8. Petitioner is not a danger to the community nor a flight risk. He has no criminal record. His current detention stems solely from his voluntary compliance with ICE's instructions to appear in person. Prior to his arrest, he was waiting for her asylum interview with USCIS.
 9. His continued detention is unjustified, harmful, and separates him from his minor child.
 10. The Respondents' decision to detain Petitioner was arbitrary and capricious from the outset. There was no legal or factual basis to alter his custody status. DHS has unlawfully implemented a nationwide pattern of arrests targeting individuals who cooperate with ICE at their scheduled check-ins, and are arresting individuals and continuing their detention without following any adequate procedures as required by the Due Process Clause.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

16. The allegations in the above paragraphs are realleged and incorporated herein. On information and belief, Petitioner is currently unlawfully detained by federal agents in violation of her constitutional rights to due process of law.

17. The Due Process Clause permits civil immigration detention only where detention is reasonably related to the government's interests in preventing flight or protecting the community from danger and is accompanied by adequate procedures to ensure that detention serves those goals.
18. The Due Process Clause requires that the Petitioner is afforded adequate procedural protections to assert her liberty interest. The government bears the burden of proof in demonstrating such detention is justified.
19. The Petitioner has received no due process and has not been afforded any adequate procedural protections. He was unlawfully detained without any legal basis and no warrant. He continues to be held without any bond or process in violation of his constitutional rights.

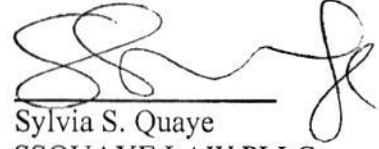
PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (3) Order that the Petitioner shall not be transferred outside the jurisdiction of the Western District of Kentucky,
- (4) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment of the United States Constitution.
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately.
- (6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(7) Grant any further relief this Court deems just and proper.

Respectfully submitted,



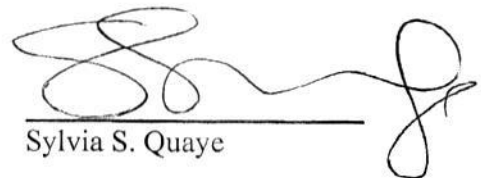
Sylvia S. Quaye
SSQUAYE LAW PLLC
P.O. BOX 1124
Prospect, KY 40059
ssquaye@gmail.com
502 298 9579
Counsel for Petitioner

Dated: August 20, 2025

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Dainier Aleman Garcia, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 20th day of August, 2025.



Sylvia S. Quaye

JS 44 (Rev. 03/24)

CIVIL COVER SHEET

3:25cv-522-RGJ

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Dainier Aleman Garcia

(b) County of Residence of First Listed Plaintiff OLDHAM

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

SSQUAYE LAW PLLC, P. O. BOX 1124, PROSPECT,
KY 40059, 502-298-9579

DEFENDANTS

JEFF TINDALL, TODD M. LYONS, KRISTI NOEM, PAM
RONDI

County of Residence of First Listed Defendant

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

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AUG 20 2025

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff (For Diversity Cases Only))

- Citizen of This State ☐ 1 ☐ 1 PTF DEF
- Citizen of Another State ☐ 2 ☐ 2 PTF DEF
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 PTF DEF
- Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4
- Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5
- Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance	☐ 310 Airplane	☐ 625 Drug Related Seizure of Property 21 USC 881	☐ 422 Appeal 28 USC 158	☐ 375 False Claims Act
☐ 120 Marine	☐ 315 Airplane Product Liability	☐ 690 Other	☐ 423 Withdrawal 28 USC 157	☐ 376 Qui Tam (31 USC 3729(a))
☐ 130 Miller Act	☐ 320 Assault, Libel & Slander		INTELLECTUAL PROPERTY RIGHTS	☐ 400 State Reapportionment
☐ 140 Negotiable Instrument	☐ 330 Federal Employers' Liability		☐ 820 Copyrights	☐ 410 Antitrust
☐ 150 Recovery of Overpayment & Enforcement of Judgment	☐ 340 Marine		☐ 830 Patent	☐ 430 Banks and Banking
☐ 151 Medicare Act	☐ 345 Marine Product Liability		☐ 835 Patent - Abbreviated New Drug Application	☐ 450 Commerce
☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)	☐ 350 Motor Vehicle		☐ 840 Trademark	☐ 460 Deportation
☐ 153 Recovery of Overpayment of Veteran's Benefits	☐ 355 Motor Vehicle Product Liability		☐ 880 Defend Trade Secrets Act of 2016	☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 160 Stockholders' Suits	☐ 360 Other Personal Injury		SOCIAL SECURITY	☐ 480 Consumer Credit (15 USC 1681 or 1692)
☐ 190 Other Contract	☐ 362 Personal Injury - Medical Malpractice		☐ 861 HIA (1395ff)	☐ 485 Telephone Consumer Protection Act
☐ 195 Contract Product Liability			☐ 862 Black Lung (923)	☐ 490 Cable/Sat TV
☐ 196 Franchise			☐ 863 DIWC/DIWW (405(g))	☐ 850 Securities/Commodities/Exchange
			☐ 864 SSID Title XVI	☐ 890 Other Statutory Actions
			☐ 865 RSI (405(g))	☐ 891 Agricultural Acts
				☐ 893 Environmental Matters
				☐ 895 Freedom of Information Act
				☐ 896 Arbitration
				☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
				☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. SECTION 2241

Brief description of cause:

PETITION FOR WRIT OF HABEAS CORPUS

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

08/20/2025

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE